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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRAVELERS CASUALTY AND SURETY COMPANY as :
Administrator for RELIANCE INSURANCE :
COMPANY, :

Plaintiff, :

-v- :

DORMITORY AUTHORITY - STATE OF NEW YORK, :
Defendants. :

-----X
DORMITORY AUTHORITY OF THE STATE OF NEW :
YORK and TDX CONSTRUCTION CORP., :
Third-Party Plaintiffs, :

-v- :

TRATAROS CONSTRUCTION, INC., :
Third-Party Defendant. :

-----X
TRATAROS CONSTRUCTION, INC. and TRAVELERS :
CASUALTY AND SURETY COMPANY, :
Fourth-Party Plaintiffs, :

-v- :

CAROLINA CASUALTY INSURANCE COMPANY; :
BARTEC INDUSTRIES, INC.; DAYTON SUPERIOR :
SPECIALTY CHEMICAL CORP. a/k/a DAYTON :
SUPERIOR CORPORATION; HARLEYSVILLE MUTUAL :
INSURANCE COMPANY (a/k/a HARLEYSVILLE :
INSURANCE COMPANY); JOHN DOES 1-20 and XYZ :
CORPS. 1-20, :
Fourth-Party Defendants. :

-----X
DENISE COTE, District Judge:

By letter dated December 10, 2010, fourth-party
defendant/fifth-party plaintiff Dayton Superior ("Dayton")
indicated that its expert, Dr. Michele Cyr ("Cyr"), had recently
accepted a position at Thornton Thomasetti, Inc. ("TTI") a firm
that works for another party in this case, Kohn Pedersen Fox

Associates ("KPF"). Based on this change in Cyr's place of employment, Dayton requested leave to substitute Michael Drerup ("Drerup") as its engineering expert. The letter further indicated that "counsel for the plaintiff and all defendants ha[d] been advised of this change." Having received no objections from any of the parties in this case, by memorandum endorsed Order dated December 10, 2010 ("December 10 Order"), the Court granted Dayton's request.

On January 13, 2011, the Court received a letter from KPF objecting to Dayton's substitution of experts and indicating that KPF had waived any conflict of interest arising from Cyr's new position at TTI. The Court convened a telephone conference that day to provide all parties with an opportunity to be heard on this issue. During the call, KPF confirmed that it was willing to waive any conflict of interest arising from Cyr's employment at TTI.

By letter dated January 13, the Dormitory Authority of the State of New York and TDX Construction Corp. requested an extension of time to oppose four motions in limine that were filed on January 11, and an adjournment of the final pretrial conference. Accordingly, it is hereby

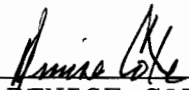
ORDERED that the December 10 Order permitting Dayton to substitute an expert witness is vacated and Dayton is denied leave to substitute Drerup for Cyr.

IT IS FURTHER ORDERED that any responsive papers to the motions in limine shall be due on **January 24, 2011** at 12:00 p.m. Counsel will provide the Court with two (2) courtesy copies of all pretrial documents at the time of filing.

IT IS FURTHER ORDERED that the final pretrial conference is scheduled for **February 3, 2011** at 9:30 a.m. in Courtroom 11B, 500 Pearl Street.

SO ORDERED:

Dated: New York, New York
January 14, 2011



DENISE COTE
United States District Judge